



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Secretary:

I am writing to request your agency's comments on two administrative appeals pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. § 930.122.

The appeals at issue are brought by Weaver's Cove Energy, LLC (Weaver's Cove) and Mill River Pipeline, LLC (Mill River). Weaver's Cove and Mill River appeal the Commonwealth of Massachusetts' objections to Weaver's Cove's proposed liquefied natural gas (LNG) terminal in Fall River, Massachusetts and Mill River's two associated pipeline laterals to an interstate pipeline grid serving the New England region. This project would affect the natural resources or land and water uses of Massachusetts' coastal zone.² Massachusetts' objections to the project preclude Federal agencies from granting licenses or permits required by the project, unless the objections are overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.64.

One of the grounds provided by the CZMA for the Secretary to override a state's objection is if the proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question is not permitted to go forward as proposed. *See* 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

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In order for these appeals to be decided in a timely fashion, I respectfully request that your views be submitted no later than **November 26, 2007**. Please forward any comments to: Brett Grosko, Attorney-Advisor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, SSMC IV, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Grosko at (301) 713-7384 or by e-mail at brett.grosko@noaa.gov.

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Joel La Bissonniere
Assistant General Counsel
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

The Honorable Robert M. Gates
Secretary
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Mr. Secretary:

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

The Honorable Samuel W. Bodman
Secretary
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Dear Mr. Secretary:

I am writing to request your agency's comments on two administrative appeals pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. § 930.122.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

The Honorable Condoleezza Rice
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

Dear Madam Secretary:

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

The Honorable Mary E. Peters
Secretary
U.S. Department of Transportation
1200 New Jersey Ave., S.E.
Washington, DC 20590

Dear Madam Secretary:

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

Mr. Stephen Hadley
Assistant to the President for National Security Affairs
The White House
1650 Pennsylvania Avenue, N.W.
Washington, DC 20504

Dear Mr. Hadley:

I am writing to request the National Security Council's comments on two administrative appeals pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The Department of Commerce's regulations afford interested Federal agencies the opportunity to comment on the national security interests of the activities which are the subject of such appeals. *See* 15 C.F.R. § 930.122.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

The Honorable Peter D. Keisler
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

Ms. Frances Fragos Townsend
Assistant to the President for Homeland Security and Counterterrorism
Homeland Security Council
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Ms. Townsend:

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Your agency has been identified as one with a potential interest in Weaver's Cove's and Mill River's administrative appeals. As such, I am requesting any views your agency may wish to provide on the national security implications of Weaver's Cove's and Mill River's proposed project. In particular, I am seeking any information you would like to provide on whether a national defense or other national security interest would be significantly impaired if the project was not permitted to go forward as proposed.³

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Should your staff have questions concerning this letter, please contact Mr. Grosko at (301) 713-7384 or by e-mail at brett.grosko@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel La Bissonniere", with a long horizontal flourish extending to the right.

Joel La Bissonniere
Assistant General Counsel
for Ocean Services

³ As noted above, Weaver's Cove and Mill River filed separate appeals on August 27, 2007 regarding, respectively, a proposed LNG terminal and two associated pipelines. To the extent your agency has comments on the terminal or pipeline component of this project, please feel free to provide them in lieu of, or in addition to, comments on the project in its entirety.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

Mr. Joseph T. Kelliher
Chairman
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Mr. Kelliher:

I am writing to request your agency's comments on two administrative appeals pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that involved Federal agencies be afforded an opportunity to comment on these appeals. *See* 16 U.S.C. § 1456(c)(3)(A).

The appeals at issue are brought by Weaver's Cove Energy, LLC (Weaver's Cove) and Mill River Pipeline, LLC (Mill River). Weaver's Cove and Mill River appeal from the Commonwealth of Massachusetts' objection to Weaver's Cove's proposed liquefied natural gas (LNG) terminal in Fall River, Massachusetts and Mill River's two associated pipeline laterals that would transport gas from the terminal to an interstate pipeline grid serving the New England region. This project would affect the natural resources or land and water uses of Massachusetts' coastal zone.² Massachusetts' objections to the project preclude Federal agencies from granting licenses or permits required by the project, unless the objections are overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.64.

In these appeals, the Appellants have requested the Secretary to override the Commonwealth's consistency objections on two grounds:

- The proposed activity is "consistent with the objectives" of the CZMA. 16 U.S.C. § 1456(c)(3)(A). To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or

¹ *See* section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. §§ 1451 *et seq.* The Department of Commerce's implementing regulations for CZMA appeals are found at 15 C.F.R. Part 930, Subpart H.

² For additional background on Weaver's Cove Energy, LLC's (Weaver's Cove) and Mill River Pipeline, LLC's (Mill River) proposed project, please refer to the appeal records, which may be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below. Appellants' Notices of Appeal and Initial Briefs are available via the Internet at <http://www.ogc.doc.gov/czma.htm>; Massachusetts' response briefs will be available after November 5, 2007.



substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the Commonwealth of Massachusetts' coastal zone management program. *See* 15 C.F.R. § 930.121.

- The proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. *See* 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

Your agency is one of the Federal permitting agencies for Weaver's Cove's and Mill River's proposed project. As such, I am requesting any views your agency may wish to provide on any of the above grounds.³

In order for these appeals to be decided in a timely fashion, I respectfully request that your views be submitted no later than **November 26, 2007**. Please forward any comments to: Brett Grosko, Attorney-Advisor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, SSMC IV, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Grosko at (301) 713-7384 or by e-mail at brett.grosko@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

OCT 24 2007

LTG Robert Van Antwerp
Commander, U.S. Army Corps of Engineers
441 G Street, N.W.
Washington, D.C. 20314-1000

Dear General Van Antwerp:

I am writing to request your agency's comments on two administrative appeals pending before the Secretary of Commerce pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that involved Federal agencies be afforded an opportunity to comment on these appeals. *See* 16 U.S.C. § 1456(c)(3)(A).

The appeals at issue are brought by Weaver's Cove Energy, LLC (Weaver's Cove) and Mill River Pipeline, LLC (Mill River). Weaver's Cove and Mill River appeal from the Commonwealth of Massachusetts' objections to Weaver's Cove's proposed liquefied natural gas (LNG) terminal in Fall River, Massachusetts and Mill River's two associated pipeline laterals that would transport gas from the terminal to an interstate pipeline grid serving the New England region. This project would affect the natural resources or land and water uses of Massachusetts' coastal zone.² Massachusetts' objections to the project preclude Federal agencies from granting licenses or permits required by the project, unless the objections are overridden by the Secretary. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.64.

In these appeals, the Appellants have requested that the Secretary override the Commonwealth's consistency objections on two grounds:

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articulated in section 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the Commonwealth of Massachusetts' coastal zone management program. *See* 15 C.F.R. § 930.121.

- The proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question was not permitted to go forward as proposed. *See* 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

Your agency is one of the Federal permitting agencies for Weaver's Cove's and Mill River's proposed project. As such, I am requesting any views your agency may wish to provide on any of the above grounds.³

In order for these appeals to be decided in a timely fashion, I respectfully request that your views be submitted no later than **November 26, 2007**. Please forward any comments to: Brett Grosko, Attorney-Advisor, c/o Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, SSMC IV, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Grosko at (301) 713-7384 or by e-mail at brett.grosko@noaa.gov.

Sincerely,



Joel La Bissonniere
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